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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA**

HONDO HANES,
Plaintiff,

v.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT
OF HOUSING AND URBAN
DEVELOPMENT.
Defendant.

Case No.

COMPLAINT FOR PERSONAL
INJURIES AND DAMAGES

COMES NOW the Plaintiff, for his cause of action against the Defendant,
alleges as follows:

I. JURISDICTION

1.1 This is an action for personal injury and it arises under the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 2671-2680.

1.2 A federal tort claim was timely filed on Hondo Hanes' behalf on February 1, 2017, and more than six months have transpired without any final action or determination made by Defendant United States of America.

1 II. VENUE

2 2.1 The alleged negligent acts and omissions committed by Defendant
3 were committed in Pierce County, Washington.
4

5 2.2 Venue is proper in the United States District Court for the Western
6 District of Washington at Tacoma.
7

8 III. IDENTIFICATION OF PARTIES

9 3.1 Plaintiff **Hondo Hanes** is a resident of Pierce County, Washington.
10

11 3.2 Defendant **United States of America** is a sovereign nation that is
12 comprised of numerous departments, agencies or sub-agencies, including the
13 U.S. Department of Housing and Urban Development.
14

15 3.3 Defendant **United States Department of Housing and Urban**
16 **Development** (“HUD”) is the federal agency who owned the property where the
17 injury occurred.
18

19 IV. FACTS

20 4.1 On April 25, 2016, the Plaintiff, Hondo Hanes and his wife Maria
21 Hanes were out house hunting.
22

23 4.2 Responding to an advertisement they saw online, they travelled to
24 21604 – 185th St. E. in Orting, WA to look at a home listed for sale. The
25 advertisement showed a four-bedroom house. A paper flyer they obtained
26 related to the home sale read, in part, “Come see this home today!”

1 4.3 Neither the paper flyer nor the on-line ad indicated that the property
2 was viewable by appointment only.
3

4 4.4 As Mr. Hanes and his wife approached the home, they noted that
5 the front door was surrounded by a large porch. The porch had yellow caution
6 tape strung across its leading edge as well as along its right-hand side. This left
7 the left side of the porch as the only side from which ingress and egress could
8 reasonably be inferred.
9

10 4.5 There were written notices on the front windows and front door of
11 the home that were only viewable by stepping up onto the porch.
12

13 4.6 Mr. Hanes and his wife, stepped up onto the porch to view the
14 home. After a few moments, Mr. Hanes stepped off the porch on the same side
15 from which he accessed it. As he did so he stepped onto what can best be
16 described as a spike that pierced through his shoe and through the bottom of his
17 left foot.
18

19 4.7 Mr. Hanes did not see the spike prior to stepping upon it.
20

21 **V. CAUSES OF ACTION**

22 5.1 The injuries suffered by the Plaintiff Hondo Hanes are a result of
23 the unsafe condition of the property the Department of Housing and Urban
24 Development listed for sale and encouraged home buyers to view.
25
26

1 5.2 All of Plaintiff Hanes' injuries and damages are the direct and
2 proximate result of the negligence of the Defendant as described above.
3

4 5.3 When the Department of Housing and Urban Development listed
5 their house for sale and encouraged home buyers to come view the property,
6 they had a duty to the home buyers that came to view the property to ensure it
7 was free from hidden or obscured spikes that could injure persons.
8

9 5.4 The Department of Housing and Urban Development breached that
10 duty by either creating or failing to remedy this hazardous condition.
11

VI. Absence of Nonparty at Fault Entities

13 6.1 Named Defendants are the only "at fault" entity. There are no
14 nonparty "at fault" entities who are in any way or percentage "at fault" for this
15 breach of the standard of care and/or Plaintiff's injuries and damages resulting
16 therefrom.
17

VII. Damages

19 7.1 As a result of the Defendant's negligence and breach of the
20 standard of care Plaintiff Hanes has sustained physical and psychological
21 injuries. He has necessarily incurred and will continue to incur reasonable
22 medical and rehabilitation expenses. He has suffered loss of earnings. He has
23 undergone pain and suffering both physical and mental. Plaintiff Hanes has
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25

1 sustained substantial general damages in the amount to be proven at the time of
2 trial.
3

4 **VIII. Limited Physician – Patient Waiver**

5 8.1 Counsel asserts the physician/patient privilege on behalf of the
6 Plaintiff for 89 days following the filing of this Complaint. On the 90th day
7 following the filing of this Complaint, Plaintiff hereby waives the
8 physician/patient privilege; the waiver is conditioned and limited as follows:

9 a. Plaintiff does not waive his constitutional right of privacy;
10 b. Plaintiff does not authorize contact with his healthcare
11 providers of any kind accept by judicial proceedings authorized by the Rules of
12 Civil Procedure;

13 c. Representatives of the Defendants are specifically instructed
14 not to attempt ex parte contact with the healthcare providers of Plaintiff Hanes;
15 and

16 d. Representatives of the Defendants are specifically instructed
17 not to contact, in writing or otherwise, Plaintiff Hanes' healthcare providers and
18 telling them that they may mail copies of records to the Defendants.

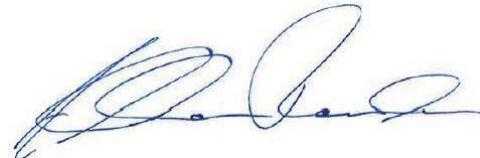
19 **IX. Prayer for Relief**

20 WHEREFORE, Plaintiff prays for judgment against the Defendant for
21 such sums of money as will reasonably and justly compensate him for the
22

1 damages he sustained as alleged in this Complaint, together with attorney's fees
2 and costs as permitted by law as well as prejudgment interests.
3

4 DATED this 4th day of October, 2017.
5

6 **RESSLER & TESH, PLLC**



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8 Allen M. Ressler, WSBA #5330
9 Jonathan Barash, WSBA #36878
10 Attorneys for Plaintiff
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